

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ELAM, RASHAAN, MECHELLE

Plaintiff

v.

JOSH SHAPIRO et al.

Defendants

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CIVIL ACTION

NO. 1:18-MC-00501-SHR

**MOTION TO DISMISS PLAINTIFF'S MISCELLANEOUS CASE FILED ON BEHALF
OF HONORABLE JESSICA BRUBAKER, HONORABLE EDWARD GUIDO,
HONORABLE CHRISTYLEE PECK AND HONORABLE THOMAS PLACEY**

Defendants, the Honorable Jessica Brubaker, the Honorable Edward Guido, the Honorable Christylee Peck and the Honorable Thomas Placey, by and through undersigned counsel, move to dismiss Plaintiff's Miscellaneous Case pursuant to Federal Rule of Civil Procedure 12 (b)(1) and (6) on the following grounds, as set forth in the accompanying Memorandum of Law:

1. Plaintiff filed this Miscellaneous Case against, *inter alia*, the Honorable Jessica Brubaker, the Honorable Edward Guido, the Honorable Christylee Peck and the Honorable Thomas Placey ("Judicial Defendants"), all of whom are presiding judicial officers in the Cumberland County Court of Common Pleas.

2. Plaintiff's allegations are digressive and completely devoid of any substantive factual allegations against Judicial Defendants, but rather primarily set forth vague, general conclusions which reference the United States Constitution.

3. Plaintiff appears to attempt to mount a constitutional challenge to all United States and Pennsylvania Statutes.

4. It appears that Plaintiff is disgruntled due to a criminal case against her in the Cumberland County Court of Common Pleas, *Commonwealth v. Elam*, CP-21-CR-0001262-2018, and that she challenges statutes that require her to have a license to carry a firearm or to drive. (See docket attached hereto as Exhibit "A.")

5. Plaintiff's prayer for relief appears to be for this Honorable Court to reschedule her state Court trial to enable her to challenge certain federal and state statutes.

6. This action is barred as to Judicial Defendants by the Eleventh Amendment to the United States Constitution.

7. Plaintiff is precluded from maintaining any claim against Judicial Defendants in their official capacities because the Eleventh Amendment acts as a bar to subject matter jurisdiction. See *Blanciak v. Allegheny Ludlum Corp.*, 77 F.3d 690 (3d Cir. 1996).

8. Any individual capacity claims against Judicial Defendants are barred by absolute judicial immunity.

9. To the extent that Plaintiff attempts to challenge the constitutionality of certain federal and state statutes, Judicial Defendants are not proper parties to this action because they lack the power to alter federal or state statutes.

10. Plaintiff's prayer for relief is improper.

11. Abstention is proper pursuant to *Younger v. Harris* and principles of federalism and comity.

12. Plaintiff's averments fail to state a claim upon which relief can be granted.

13. Any request on the part of Plaintiff for leave to amend this Miscellaneous Case would be futile since the Court lacks subject-matter jurisdiction over her claims, and she cannot state a claim upon which relief can be granted in light of the legal defenses set forth herein.

WHEREFORE, Judicial Defendants, Honorable Jessica Brubaker, Honorable Edward Guido, Honorable Christylee Peck and Honorable Thomas Placey, respectfully request that this Honorable Court dismiss Plaintiff's Miscellaneous Case as to them, with prejudice.

Respectfully submitted,

s/ Martha Gale

MARTHA GALE, ESQUIRE
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Administrative Office of PA Courts
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Philadelphia, PA 19102
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*Attorney for Defendants, Honorable Jessica
Brubaker, Honorable Edward Guido, Honorable
Christylee Peck and Honorable Thomas Placey*

EXHIBIT "A"

COURT OF COMMON PLEAS OF CUMBERLAND COUNTY**DOCKET**

Docket Number: CP-21-CR-0001262-2018

CRIMINAL DOCKET

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Rashaan Mechelle Elam

CASE INFORMATIONJudge Assigned:Date Filed: 05/07/2018Initiation Date: 01/28/2018OTN: X 155610-0LOTN:Originating Docket No: MJ-09201-CR-0000039-2018Initial Issuing Authority: Paul M. FegleyFinal Issuing Authority: Paul M. FegleyArresting Agency: MIDDLESEX TWP P.D.Arresting Officer: Carver, Rachel K.Complaint/Incident #: 20180128M0400Case Local Number Type(s)Case Local Number(s)**STATUS INFORMATION**Case Status: ActiveStatus DateProcessing StatusArrest Date: 01/28/2018

05/07/2018

Awaiting Formal Arraignment

05/07/2018

Awaiting ARD Hearing

05/07/2018

Awaiting Filing of Information

Complaint Date: 01/28/2018**CALENDAR EVENTS**

<u>Case Calendar</u>	<u>Schedule</u>	<u>Start</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u>
<u>Event Type</u>	<u>Start Date</u>	<u>Time</u>			<u>Status</u>
Formal Arraignment	07/19/2018	9:00 am	Jury Assembly Room		Moved
Formal Arraignment	07/31/2018	9:30 am	Courtroom 3	President Judge Edward E. Guido	Scheduled
Pre-Trial Conference	08/28/2018	1:30 pm	4th Floor		Scheduled
Trial	09/10/2018	9:00 am	4th Floor		Scheduled
Trial	09/10/2018	9:00 am	4th Floor		Scheduled
Trial	09/10/2018	9:00 am	4th Floor		Scheduled
Trial	09/10/2018	9:00 am	4th Floor		Scheduled
Trial	09/10/2018	9:00 am	4th Floor		Scheduled

CONFINEMENT INFORMATION

<u>Confinement</u>	<u>Confinement</u>	<u>Destination</u>	<u>Confinement</u>	<u>Still in</u>
<u>Known As Of</u>	<u>Type</u>	<u>Location</u>	<u>Reason</u>	<u>Custody</u>
10/23/2017	County Jail	Cumberland County Prison		Yes

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Rashaan Mechelle Elam

DEFENDANT INFORMATION

Date Of Birth: 02/20/1979

City/State/Zip: Carlisle, PA 17013

Alias Name

Elam, Debra K.
 Elam, Rahsaan M.
 Elam, Rashaan
 Elam, Rashaan M.
 Eleam, Rashann

CASE PARTICIPANTSParticipant TypeName

Defendant

Elam, Rashaan Mechelle

BAIL INFORMATION

Elam, Rashaan Mechelle

Nebbia Status: None

Bail ActionDateBail TypePercentageAmountBail Posting StatusPosting Date

Set

01/28/2018

Monetary

\$25,000.00

Posted

01/28/2018

CHARGES

Seq.	Orig Seq.	Grade	Statute	Statute Description	Offense Dt.	OTN
1	1	F3	18 § 6106 §§A1	Firearms Not To Be Carried W/O License	01/28/2018	X 155610-0
2	3	M2	18 § 5101	Obstruct Admin Law/Other Govt Func	01/28/2018	X 155610-0
3	2	M3	18 § 5503 §§A4	Disorder Conduct Hazardous/Physi Off	01/28/2018	X 155610-0
4	4	S	75 § 4302 §§A3	Periods For Requiring Lighted Lamps - Any Time Windshield Wipers Are On	01/28/2018	X 155610-0
5	5	S	75 § 1543 §§A	Driv While Oper Priv Susp Or Revoked	01/28/2018	X 155610-0

DISPOSITION SENTENCING/PENALTIESDispositionCase EventDisposition DateFinal DispositionSequence/DescriptionOffense DispositionGrade SectionSentencing JudgeSentence DateCredit For Time ServedSentence/Diversion Program TypeIncarceration/Diversionary PeriodStart DateSentence Conditions**Held for Court (Lower Court)**

Defendant Was Present

Lower Court Disposition

04/30/2018

Not Final

1 / Firearms Not To Be Carried W/O License

Held for Court (Lower Court)

F3

18 § 6106 §§ A1

2 / Obstruct Admin Law/Other Govt Func

Held for Court (Lower Court)

M2

18 § 5101

3 / Disorder Conduct Hazardous/Physi Off

Held for Court (Lower Court)

M3

18 § 5503 §§ A4

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DISPOSITION SENTENCING/PENALTIESDisposition

<u>Case Event</u>	<u>Disposition Date</u>	<u>Final Disposition</u>	
<u>Sequence/Description</u>	<u>Offense Disposition</u>	<u>Grade</u>	<u>Section</u>
<u>Sentencing Judge</u>	<u>Sentence Date</u>	<u>Credit For Time Served</u>	
<u>Sentence/Diversion Program Type</u>	<u>Incarceration/Diversionary Period</u>	<u>Start Date</u>	
<u>Sentence Conditions</u>			
4 / Periods For Requiring Lighted Lamps - Any Time Windshield Wipers Are On	Held for Court (Lower Court)	S	75 § 4302 §§ A3
5 / Driv While Oper Priv Susp Or Revoked	Held for Court (Lower Court)	S	75 § 1543 §§ A

Proceed to Court Defendant Was Not Present

<u>Information Filed</u>	<u>Disposition Date</u>	<u>Final Disposition</u>	
1 / Firearms Not To Be Carried W/O License	07/18/2018	Not Final	
2 / Obstruct Admin Law/Other Govt Func	Proceed to Court	F3	18 § 6106 §§ A1
3 / Disorder Conduct Hazardous/Physi Off	Proceed to Court	M2	18 § 5101
4 / Periods For Requiring Lighted Lamps - Any Time Windshield Wipers Are On	Proceed to Court	M3	18 § 5503 §§ A4
5 / Driv While Oper Priv Susp Or Revoked	Proceed to Court	S	75 § 4302 §§ A3
	Proceed to Court	S	75 § 1543 §§ A

COMMONWEALTH INFORMATION

Name: Daniel Jerome Sodus
Assistant District Attorney

Supreme Court No: 063114

Phone Number(s):
717-240-6210 (Phone)

Address:
Cumberland CO Da's Office
1 Court House Sq RM 202
Carlisle, PA 17013-3322

ATTORNEY INFORMATIONName:Supreme Court No:Rep. Status:Phone Number(s):**ENTRIES**

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
1	01/28/2018		Gibson, Michael R.
Bail Posted - Elam, Rashaan Mechelle			
2	01/28/2018		Day, Susan K.
Bail Set - Elam, Rashaan Mechelle			
1	05/07/2018		Court of Common Pleas - Cumberland County
Original Papers Received from Lower Court			
1	07/09/2018		Elam, Rashaan Mechelle
Writ of Mandamus & Habeas Corpus, filed.			

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ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
1	07/11/2018	07/10/2018	Brewbaker, Jessica E.
Order of Court, Filed. 07-10-2018 In RE: Writ of Mandamus and Habeas Corpus			
Upon consideration of the Writ of Mandamus and Habeas Corpus, the Commonwealth is DIRECTED pursuant to PA Rule of Criminal Procedure 577, tp file a response within 10 days of this order.			
Copies mailed & delivered 07-12-2018			
2	07/17/2018		Elam, Rashaan Mechelle
Bail Motion, filed.			
1	07/18/2018		Commonwealth of Pennsylvania
Information Filed			
2	07/19/2018		Court of Common Pleas - Cumberland County
formal arraignment scheduled for 7/31/18 at 9:30 AM in courtroom 3			
copies delivered/mailed by court admin on 7/19/18.			
1	07/20/2018		Commonwealth of Pennsylvania
Answer and New Matter, filed.			
1	07/24/2018	07/23/2018	Brewbaker, Jessica E.
Order of Court, Filed. 07-23-2018 In RE: Writ of Mandamus and Habeas Corpus			
Upon consideration of the Defendants Writ of Mandamus and Habeas Corpus, and the Commonwealths Answer and New Matter thereto, it is hereby ORDERED that the Defendants motion is DENIED.			
Copies delivered & mailed 07-26-2018			
1	08/14/2018		Elam, Rashaan Mechelle
Order to Clerk of Court to Perform Specific Ministerial Acts in Accordance with Supreme Court of the United States Matter "United States v. Lombardo, Filed.			
2	08/14/2018		Elam, Rashaan Mechelle
Notice of Protest, Filed.			
3	08/14/2018		Elam, Rashaan Mechelle
Order to Clerk of Court to Perform Specific Ministerial Acts in Accordance with Supreme Court of the United States Matter "United States v. Lombardo, Filed.			

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ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
4	08/14/2018		Elam, Rashaan Mechelle
Declaration and Notice Demanding and Reserving Right to Trial by Jury By My Peers, Filed.			
5	08/14/2018		Elam, Rashaan Mechelle
Proof of Service, Filed.			
1	08/16/2018		Elam, Rashaan Mechelle
Release of Personal Property from Escrow, filed.			
1	08/28/2018		Elam, Rashaan Mechelle
Letter Rogatory For Relief, Filed.			